

Committee: STANDARDS COMMITTEE

Agenda Item

Date: 26 November 2009

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Title: **ALLEGATION OF A BREACH OF THE CODE OF CONDUCT**

Author: Michael Perry, Assistant Chief Executive,
01799 510416

Item for decision

Summary

1. This report is to inform members of an investigation I have recently concluded into allegations that two members of Thaxted Parish Council breached that Council's Code of Conduct. The cases were passed for investigation by an assessment sub committee of the Standards Committee on the 10 August.

Recommendations

2. That members determine whether they accept my findings contained in my reports and if so what sanctions would be appropriate in the circumstances of the case.

Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - (i) Code of Conduct of Thaxted Parish Council
 - (ii) Minutes of meetings of Thaxted Parish Council referred to in my report
 - (iii) Notes of interviews with persons named in my report
 - (iv) Letter of 26 October 2009 from Cllr Freeman (copy attached)
 - (v) Letter of 27 October 2009 from Cllr Hingston (copy attached)

Impact

4.

Communication/Consultation	A summary of the committee's decision must be published in a newspaper circulating in the area unless the committee conclude that there has been no breach of the Code and the Member asks for no publicity.
Community Safety	None
Equalities	None
Finance	None

Human Rights	It is accepted that the Code of Conduct does impose restrictions on a member's freedom of expression but the interference with this human right is justified in the public interest and is in accordance with law.
Legal implications	There is a right of appeal against a finding of the committee and against any sanction which may be imposed to the Adjudication Panel with the permission of the President of the Adjudication Panel.
Sustainability	None
Ward-specific impacts	As the matter relates to Thaxted Parish Council, only Thaxted is engaged by the complaint.
Workforce/Workplace	None

Situation

5. On the 16 July 2009 I received a complaint that Cllr Freeman had breached the Code of Conduct of Thaxted Parish Council in that he failed to declare a personal interest in a matter being considered by his council; used his influence to improperly confer an advantage on another and failed to behave as required in relation to a prejudicial interest at meetings of the council. On 22 July 2009 I received a further allegation that Cllr Hingston had failed to declare the nature of a personal interest in a matter being considered by his council; failed to declare the existence and nature of an interest in the matter being considered by his council and the interest being prejudicial he failed to withdraw from meetings he ought to have done so. At its meeting on the 10 August 2009 the sub committee referred all these allegations to me and also asked me to consider whether by their conduct the members had brought themselves or Thaxted Parish Council into disrepute.
6. I have now concluded my investigation and my final reports are attached.
7. In the event that members find that there has been a breach of the Code of Conduct by either or both of the members concerned the committee will need to give consideration to what sanction would be appropriate in all the circumstances. The range of sanctions open to the committee is as follows:
 - (i) To take no action
 - (ii) To censure a member (should the member no longer be a member of the council at the date of the committee meeting this is the only sanction which may be imposed)
 - (iii) To require the member to apologise in a form acceptable to the committee.

- (iv) To require the member to undergo mediation or training.
- (v) To restrict the member's access to council properties or facilities providing that this is proportionate and does not interfere with the performance by the member of their duties as councillor.
- (vi) A partial suspension from the council for a period not exceeding 6 months.
- (vii) Suspension for a period not exceeding 6 months.

A suspension or partial suspension may be linked with a sanction requiring apology, mediation or training so that the suspension or partial suspension only takes effect in the event that the member declines the alternative.

Risk Analysis

8. There are no risks associated with this report.

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Mr. Michael Perry
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27 October 2009

Dear Mr. Perry

I appreciate the opportunity to comment on your report and wish to make the following observations.

I quite accept that I may have not have followed all the correct procedures in the meetings I attended and if I have transgressed any rules it is lack of knowledge, training and experience and not by design for any personal gain.

All your comments are based on the minutes of parish council meetings, which I had the opportunity to check and it is too late to argue with their accuracy now. I do not have any recollection of sitting in on any discussions relating to the Rescu project and if I did not declare an interest on every occasion it was not intentional. It is possible that the matter might have been mentioned in passing before I had a chance react, and you can see that on most occasions I have declared my interests and retired from discussing the matter.

All members of the parish council were well aware that I am a joint owner of the land in question, having already sold an area to Hastoe's for affordable housing. As a relatively new councillor, a little support from the rest of the committee to ensure that I did follow the correct procedures might have been expected, if I did transgress. Nothing was ever said by them at the time or afterwards.

As you already know I was co-opted onto the council, as no one wanted to stand for election at the time. I am unpaid, untrained, inexperienced and my only positive contribution to the council is that I have lived in the area all my life and operated my farming business from Thaxted, so I have local knowledge and some business skills. I have also been a trustee of a local charity for many years.

I challenge you to find any evidence that I have in any way tried to lobby local or district councillors or the planning committee for any personal gain. The proposed sale of land to the Rescu Charity was as a gesture of goodwill to the Charity at their request and not as a result of any effort by the Hingston family. It would be far better for us to wait until there was a realistic chance of a change of use in the more distant future. If I had any intention to influence a

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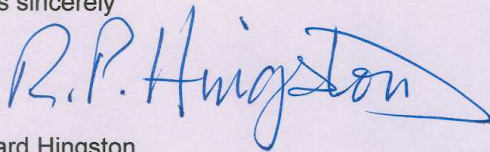
planning application I would have used professional help and in any case parish councillors have no direct impact on planning decisions, so I do not consider that I could have influenced proceedings in any way.

It is hardly surprising that people do not want to become involved in local government, when there is so much bureaucracy. In the event that a misdemeanour has occurred, I am horrified by the amount of time and effort that has been spent investigating it. The process has been most unpleasant, inferring that I have committed an offence before anything has been proved. I am more than happy to stand down if my conduct does not come up to your exacting standards.

The complainant has every right to protect his own interests, but he must be well aware that living on the edge of a village puts him at some risk of some alteration to his environment, be it agricultural, recreational, commercial or industrial. The proposed development seems quite sympathetic to the area and is for a good cause and might prove to be better than some other future development which might offend his "nimbi" attitude to a much greater extent.

I hope that you can accept my position that there was no intent to interfere with correct procedures and I will accept my responsibilities, if I have in fact erred. I await the outcome of your deliberations.

Yours sincerely



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26th October 2009

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Dear Mr Perry

Thank you for forwarding a copy of your draft Report, and for giving me the opportunity to comment.

My only observation would be that on Page 4, Paragraph 4.10 I do not remember saying "as stated at the Parish Council Meeting on 5th February, the site had not been earmarked for development outside the VDL. A change in the planning rules would be required in order to permit the development on this site." However, as this is not minuted it would be difficult for me to dispute.

I find your Report to be fair and it has exposed the need for Councillors to undergo more training, something which we are now doing in Thaxted. Training days have to be fitted in with full time employment in many cases which is a difficulty.

Yours sincerely

J R Freeman